

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Jonathan Hulbert and Debra Hulbert, Court File No.: _____

Plaintiff,

vs.

COMPLAINT

Mayo Clinic Rochester, a non-profit corporation
d/b/a The Mayo Clinic,

Defendant.

PLAINTIFFS, FOR THEIR CAUSE OF ACTION AGAINST THE DEFENDANT
HEREIN, ALLEGES AND STATES AS FOLLOWS:

I.

Jurisdiction of this Court exists pursuant to 28 U.S.C. § 1332 in that the matter in controversy herein exceeds the sum of Seventy-Five Thousand (\$75,000) Dollars, exclusive of interest, costs and disbursements, and that the controversy is between citizens of different states.

II.

That at all times material hereto, Plaintiffs Jonathan Hulbert and Debra Hulbert, were and are husband and wife, and are citizens and residents of the State of Montana.

III.

That at all times material hereto, Defendant Mayo Clinic Rochester is a Minnesota Corporation licensed under the laws of the State of Minnesota and maintaining its principal place of business in Rochester, Minnesota.

IV.

That at all times material hereto, Defendant Mayo Clinic Rochester employed physicians, nurses and other healthcare providers through an entity known as the Mayo Clinic.

V.

That in November of 2008, Plaintiff Jonathan Hulbert came under the care and treatment of Defendant Mayo Clinic Rochester, acting through its agents and employees, for the purpose of diagnosis and treatment of a polyp condition in his colon.

VI.

That the Mayo Clinic physicians diagnosed his condition as attenuated familial adenomatous polyposis and recommended treatment for this condition, including a colectomy. In making the diagnosis of attenuated familial adenomatous polyposis, Defendant negligently departed from the degrees of skill and care ordinarily possessed and exercised by physicians and surgeons under the same or similar circumstances and negligently recommended that he undergo a colectomy.

VII.

That in recommending and encouraging a colectomy, Defendant negligently failed to provide Plaintiff Jonathan Hulbert with adequate and accurate information about treatment alternatives for his condition which did not include colectomy, but instead, included ongoing observation of his colon polyp condition.

VIII.

That as a direct and proximate result of Defendant's negligence, Plaintiff Jonathan Hulbert sustained injuries including a colectomy, which has and will in the

future cause pain, discomfort and disability; that he has been and will in the future be caused to expend sums of the money for medical care and treatment; and that his earning capacity has been and will be impaired.

IX.

That by reason of the injuries to her spouse, Plaintiff Debra Hulbert has been deprived of his care, comfort, companionship and services.

WHEREFORE, Plaintiffs pray for judgment against the Defendant herein for a reasonable amount in excess of Seventy-Five Thousand (\$75,000) Dollars, together with costs disbursements and interest as allowed by any and all applicable laws.

DATED: December 20, 2012

MACKENZIE & DORNIK, P.A.

By: s/ Reed K. Mackenzie
REED K. MACKENZIE (ID 66011)
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of all the issues of fact.

DATED: December 20, 2012

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